

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PAUL BRYAN and BONNIE BRYAN,  
husband and wife, individually and as  
parents and natural guardians on behalf of  
their minor child, KB and KB,

Plaintiffs,

v.

ERIE COUNTY OFFICE OF CHILDREN  
& YOUTH, et al.,

Defendants.

C.A. No. 03-259 Erie

**ORDER**

AND NOW, to-wit, this 28<sup>th</sup> day of September, 2006, it is hereby ORDERED,  
ADJUDGED AND DECREED THAT:

1) "ECOCY Defendants' Motion to Dismiss Pursuant to F.R.C.P. 12(b)(6)" (Doc. 24) be and the same hereby is GRANTED and Judgment is hereby entered in favor of ECOCY, Paul Cancilla, Carmen Merritt, Renie Skalko, Cindy Baxter, Cindy Lewis, Barry Kohler, Brigitte Sullivan and John Petulla as to Counts I through VIII;

2) Defendant Barry Kohler's "Motion to Dismiss Pursuant to F.R.C.P. 12(b)(6) or, in the alternative, Motion for Summary Judgment" (Doc. 25) be and the same hereby is GRANTED IN PART as to the motion to dismiss and DENIED AS MOOT as to the motion for summary judgment and Judgement is hereby entered in favor of Barry Kohler as to Counts I and V;

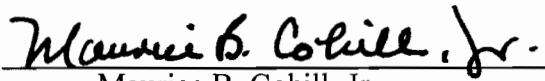
3) "Motion to Dismiss Filed on Behalf of Defendants Bethesda Children's Home and Elizabeth Mallory" (Doc. 26) be and the same hereby is GRANTED IN PART AND DENIED IN PART. Judgement is hereby entered in favor of defendant Bethesda Children's Home and Elizabeth Mallory as to Counts I, V, VII and VIII. Counts II and VI are hereby remanded to state court pursuant to 42 Pa. C.S.A. § 5103.

4) "Defendants, Harborcreek Youth Services and Merritt Lynn Kleiner, Motion to Dismiss Pursuant to Fed. R. Civ. P. Rule 12(b)(6) or, in the Alternative, Motion for Summary Judgment Pursuant [sic] to Fed. R. Civ. P. Rule 56" (Doc. 30) be and the same hereby is GRANTED IN PART as to the Motion to Dismiss and DENIED AS MOOT as to the Motion for Summary Judgment. Count I is hereby dismissed in its entirety and Judgment is hereby entered as to defendants Harborcreek and Kleiner at Count I. Count II is hereby dismissed in as to plaintiffs Paul and Bonnie Bryan's claim against defendants Harborcreek and Kleiner and Judgment is hereby entered in favor of Harborcreek and Kleiner as to Count II. Plaintiff K.B.'s claim against defendants Harborcreek and Kleiner is remanded to the state courts pursuant to 42 Pa. C.S.A. § 5103. Count III as alleged against defendant Harborcreek and Kleiner is hereby remanded to the state court pursuant to 42 Pa. C.S.A. § 5103. Count IV is hereby dismissed in its entirety and Judgment as to Count IV is hereby entered in full in favor of Defendants Harborcreek and Kleiner;

5) "Commonwealth Defendants' Motion to Dismiss or, in the Alternative, Motion for Summary Judgment" (Doc. 33) be and the same hereby is GRANTED and Judgment is hereby entered in full in favor of defendants Commonwealth of Pennsylvania, Department of Public Welfare, Michael Kazmer, and John Petulla.

6) Plaintiffs demand for punitive damages as to defendants Harborcreek and Harborcreek employee acting in his official capacity (Merritt Lynn Kleiner) and ECOCY and ECOCY employees acting in their official capacities (Paul Cancilla, Carmen Merritt, Renie Skalko, Cindy Baxter, Cindy Lewis, Barry Kohler, Brigitte Sullivan and John Petulla) at ¶ 82 is hereby STRICKEN.

7. The "Supplement to Motion to Dismiss Filed on Behalf of Bethesda Defendants" (Doc. 44) on the grounds of abstention is hereby DENIED in full.

  
Maurice B. Cohill, Jr.  
Senior United States District Court Judge

cc: counsel of record